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**UNITED STATES DISTRICT COURT
 DISTRICT OF NEVADA**

NML CAPITAL, LTD.,

Plaintiff,

v.

THE REPUBLIC OF ARGENTINA,

Defendant.

CASE NO.: 2:14-cv-00492-JAD-VCF

**NML CAPITAL, LTD.'S NOTICE OF NON-
 OPPOSITION TO NON-PARTY
 MOSSACK FONSECA & CO.'S MOTION
 TO INTERVENE FOR THE LIMITED
 PURPOSE OF CONTESTING SERVICE
 OF PROCESS AND JURISDICTION**

Plaintiff NML Capital, Ltd. ("NML"), by and through its attorneys of record, Brownstein Hyatt Farber Schreck, LLP and Dechert LLP, hereby submits notice to the Court that it does not oppose the intervention of Non-Party Mossack Fonseca & Co. ("Mossack Fonseca"), as requested in its Motion to Intervene for the Limited Purpose of Contesting Service of Process and Jurisdiction (Dkt. #106) ("Mossack's Motion"). Mossack's Motion, however, devotes only two-and-a-half pages out of its ten-page brief¹ to arguing the legal standard that Mossack Fonseca must satisfy in order to intervene in this case. Although the Court has not yet granted Mossack's Motion, Mossack Fonseca devotes the rest of its Motion to arguing the substance of its objections

¹ Mossack's Motion is sixteen pages long if one counts the table of contents, table of authorities, and the standard introductory language to the motion.

1 regarding sufficiency of process and lack of jurisdiction. To ensure that NML's consent to the
2 granting of Mossack's Motion is not somehow construed as an endorsement of the arguments
3 made therein, NML offers the following brief response:

4 According to Mossack Fonseca, it is the victim of a rogue court that has lost its way.
5 Proof of its victimization purportedly lays in the Court's Order filed March 16, 2015 (Dkt. #101),
6 wherein the Court found, among other things, that M.F. Corporate Services (Nevada) Limited
7 ("MF Nevada") is the alter ego and/or agent of Mossack Fonseca, that exercising jurisdiction over
8 Mossack Fonseca was appropriate, and that the Court can compel Mossack Fonseca to comply
9 with the subpoena served on MF Nevada. Choosing its words carefully, Mossack Fonseca
10 complains that NML did not attempt to formally serve Mossack Fonseca with the subpoena at
11 issue or with "notice of hearing" and, as a result, it was denied "an opportunity to be heard". (*See*
12 Mossack's Motion at 6:13-23; 9:27-28.)

13 Conspicuously absent from Mossack's Motion is any statement that Mossack Fonseca was
14 unaware of the subpoena issued to MF Nevada as its agent, of the pending motions, and/or of the
15 multiple hearings held by the Court. Perhaps Mossack Fonseca intends to offer proof of its
16 ignorance about the proceedings, and try to explain away all of the damning evidence NML's
17 briefs presented to the Court, when it "fully brief[s]" its objections to the Court. Or maybe, after
18 having lost the first time with MF Nevada's arguments, Mossack Fonseca now seeks the
19 equivalent of a legal mulligan.

20 Irrespective of Mossack Fonseca's motives, NML does not oppose its request to intervene
21 in this action. It is hardly original for a party who has purposefully chosen to remain lurking in
22 the shadows of a case to cry foul after a court rules against them. NML does, however, dispute
23 Mossack Fonseca's objections to the factual and legal bases that serve as the bedrock of the
24 Court's Order. NML will fully address the fallacies of these objections, if and when the Court
25 permits Mossack Fonseca to intervene and present its arguments to the Court.
26 Regardless of how Mossack Fonseca tries to spin the facts and the law, the Court should
27 conclude—just as the Honorable Richard F. Boulware will discover—that the Court's Order is
28 both factually and legally unassailable.

1 Finally, and to avoid any later claim of surprise by Mossack Fonseca, if the Court grants
 2 Mossack's Motion, NML intends to serve jurisdictional discovery on Mossack Fonseca. "[A]
 3 district court has broad discretion to permit or deny jurisdictional discovery." *Liberty Media*
 4 *Holdings, LLC v. Letyagin*, 925 F. Supp. 2d 1114, 1120 (D. Nev. 2013) (citing *Laub v. U.S.*
 5 *Department of the Interior*, 342 F.3d 1080, 1093 (9th Cir.2003)). "A plaintiff need not make out a
 6 prima facie case of personal jurisdiction before it can obtain jurisdictional discovery." *Id.* (citation
 7 omitted). Rather, "discovery should ordinarily be granted where pertinent facts bearing on the
 8 question of jurisdiction are controverted or where a more satisfactory showing of the facts is
 9 necessary." *Laub*, 342 F.3d at 1093; *see also Fin. Indem. Co. v. Edwards*, 2014 U.S. Dist. LEXIS
 10 154552, *8 (D. Nev. Oct. 31, 2014) ("Here, the court's duty to safeguard its limited powers of
 11 jurisdiction under Rule 12(h) requires the court to order the parties to conduct jurisdictional
 12 discovery on the amount in controversy.").

13 Here, the Court has already determined that it can properly exercise jurisdiction over
 14 Mossack Fonseca. (*See, e.g., Court's Order at 20:11-14 (Dkt. #101).*). Mossack Fonseca
 15 disagrees. Mossack Fonseca will likely submit affidavits or declarations from its employees to
 16 try to convince the Court that it lacks jurisdiction over Mossack Fonseca. However, Mossack
 17 Fonseca has already demonstrated the lengths it will go to thwart NML's discovery efforts and to
 18 obstruct the search for the truth. As the Court will recall, one of Mossack Fonseca's employees
 19 (Leticia Montoya) previously offered sworn testimony in opposition to NML's motion to compel
 20 the 123 Báez Entities to comply with subpoenas served on them by NML. The Court rightly
 21 concluded that her affidavit was "conclusory" and "not credible." (*See Court's Order filed August*

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1 11, 2014 (Dkt. #36).) Thus, neither the Court nor NML should be required to take Mossack
2 Fonseca's word for it now.

3 DATED this 13th day of April 2015.

4 BROWNSTEIN HYATT FARBER
5 SCHRECK, LLP

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CERTIFICATE OF SERVICE

Pursuant to Fed.R.Civ.P.5(b), I certify that I am an employee of BROWNSTEIN HYATT FARBER SCHRECK, LLP, and that the foregoing **NML CAPITAL, LTD.'S NOTICE OF NON-OPPOSITION TO NON-PARTY MOSSACK FONSECA & CO.'S MOTION TO INTERVENE FOR THE LIMITED PURPOSE OF CONTESTING SERVICE OF PROCESS AND JURISDICTION** was served via electronic service to all electronic registered CM/ECF users in this matter, and via U.S. Mail, postage prepaid, on the date and to the address shown below:

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DATED this 13th day of April, 2015.

/s/ Paula Kay
an employee of Brownstein Hyatt Farber Schreck, LLP

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